

(1) Whether the widow(er) was living in the same household as the employee, as defined in § 222.16 of this part, at the time of the employee's death, if the claimant is applying for the 1974 Act lump-sum death payment.

(2) Whether the widow(er) was living with the employee, as defined in § 222.15 of this part, at the time of the employee's death, if the claimant is applying for the 1937 Act lump-sum death payment, annuities due but unpaid at death, the residual lump-sum payment, or a lump-sum refund payment.

(c) In order for a claimant who has applied for a monthly survivor annuity to establish a deemed marriage, the claimant must have been living in the same household as the employee at the time of the employee's death (see § 222.16).

(d) If the husband, wife, widow(er), remarried widow(er), or surviving divorced spouse of the employee is a claimant for a monthly annuity on a basis other than age or disability, a child-in-care determination is required (see §§ 222.17 and 222.18).

§ 222.11 Determination of marriage relationship.

A claimant will be considered to be the husband, wife, or widow(er) of an employee if the law of the State in which the employee has or had a permanent home would recognize that the claimant and employee were validly married, or if a deemed marriage is established.

(a) Generally, State courts will find that a claimant and employee were validly married if—

(1) The employee and claimant were married in a civil or religious ceremony (see § 222.12) or

(2) The employee and claimant live together in a common-law marriage relationship which is recognized under applicable State law (see § 222.13), and no impediment to the marriage existed at the time it took place.

(b) A deemed marriage relationship may be established as described in § 222.14.

§ 222.12 Ceremonial marriage relationship.

A valid ceremonial marriage is one which would be recognized as valid by

the courts of the State in which the marriage ceremony took place. Generally, State law provides various procedures which must be followed, such as designation of who may perform the marriage ceremony, what licenses or witnesses are required, and similar rules. A ceremonial marriage may be a civil or religious ceremony, or a ceremony which follows tribal customs, Chinese customs, or similar traditional procedures.

§ 222.13 Common-law marriage relationship.

Under the laws of some States, a common-law marriage is one which is not solemnized in a formal ceremony, but is generally evidenced by a consummated agreement to marry between two persons legally capable of making a marriage contract, followed by cohabitation. The laws of the various States which recognize common-law marriage delineate specific factors which must be present in order to establish a valid common-law marriage in those States.

§ 222.14 Deemed marriage relationship.

If a ceremonial or common-law marriage relationship cannot be established under State law, a claimant may still be found to have the relationship as spouse of an employee based upon a deemed marriage. A claimant is deemed to be the wife, husband, or widow(er) of the employee if the person's marriage to the employee would have been valid under State law except for a legal impediment, and all of the following requirements are met:

(a) The claimant married the employee in a civil or religious ceremony.

(b) The claimant went through the marriage ceremony in good faith. Good faith means that at the time of the ceremony the claimant did not know that a legal impediment existed, or if the claimant did know, he or she thought that it would not prevent a valid marriage.

(c) The claimant was living in the same household as the employee (see § 222.16) when he or she applied for the spouse annuity or when the employee died.